1 2 3 4 5	PAT LUNDVALL (NSBN 3761) KRISTEN T. GALLAGHER (NSBN 9561) McDONALD CARANO WILSON LLP 2300 W. Sahara Ave, Suite 1000 Las Vegas, Nevada 89102 Telephone: 702.873.4100 Facsimile: 702.873.9966 lundvall@mcdonaldcarano.com kgallagher@mcdonaldcarano.com		
6	Attorneys for Prospect Mortgage, LLC		
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8	UNITED STATES DISTRICT COURT		
9	DISTRICT OF NEVADA		
10	FIRST OPTION MORTGAGE, LLC, CASE NO.:		
	Plaintiff,		
11	vs. NOTICE OF REMOVAL		
12 13	NIGEL TABBERT; PROSPECT MORTGAGE, LLC		
14	Defendants.		
15			
16	TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA:		
17	Pursuant to 28 U.S.C. §§ 1441 and 1446, defendant Prospect Mortgage, LLC ("Prospec		
18	Mortgage") hereby removes this action to the United States District Court, and in support		
19	thereof, states as follows:		
20	1. The grounds for this removal is diversity of citizenship pursuant to 28 U.S.C.		
21	1332.		
22	2. Complete diversity exists as follows:		
23	a. Upon information and belief, plaintiff First Option Mortgage, LLC is		
24	Georgia limited liability company; its members, Kurt A. Nikolai and Timothy Burford, ar		
25	domiciled and reside in Georgia, thus First Option is deemed a citizen of Georgia. A copy of		
26	First Option's filing with the Nevada Secretary of State is attached hereto as Exhibit A.		
	b. Prospect Mortgage is a Delaware limited liability company; its member		
27	are also citizens of Delaware; thus Prospect Mortgage is deemed a citizen of Delaware.		
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c. Defendant Nigel Tabbert ("Tabbert") is a resident of and domiciled in the State of Nevada, thus is deemed a citizen of Nevada. Complaint, ¶ 9.

Thus, complete diversity exists between Plaintiff and Defendants.

- 3. With respect to the amount in controversy requirement, the Complaint alleges Tabbert misappropriated customer lists and other proprietary information in violation of a confidentiality and non-solicitation agreement between Tabbert and First Option. See e.g. Complaint, ¶¶ 42-67. The Complaint further alleges wrongdoing by Prospect Mortgage in connection with the provision of residential loans by Tabbert to certain First Option customers. *Id.* at ¶¶ 112-119. In furtherance of its alleged damages, First Option has asserted nine claims for relief: (1) breach of contract: breach of confidentiality covenants (Tabbert); (2) breach of contract: breach of non-solicitation of customers covenants (Tabbert); (3) violation of Nevada's Trade Secrets Act (all defendants); (4) breach of the implied covenant of good faith and fair dealing (Tabbert); (5) intentional interference with contractual relations (Prospect Mortgage); intentional interference with prospective economic advantage (all defendants); (7) violation of NRS 205.477 (all defendants); (8) conversion (all defendants); (9) civil conspiracy (all defendants). Additionally, First Option seeks temporary and permanent injunctive relief against Prospect Mortgage and Tabbert. In connection with First Option's civil conspiracy claim, it has asserted punitive damages against Tabbert and Prospect Mortgage. "It is well established that the amount in controversy is measured by the value of the object of the litigation." Hunt v. Wash. State Apple Advertising Comm'n, 432 U.S. 333, 347 (1977). Based on the foregoing, the amount in controversy exceeds the \$75,000.00 jurisdictional requirement.
- 4. Accordingly, this Court has jurisdiction over these claims pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00. This Court's jurisdiction is also proper pursuant to 28 U.S.C. § 1441(a).
- 5. This removal notice is timely. Prospect Mortgage was served with copies of the Summons and Complaint on April 10, 2012. This Notice of Removal, being filed within 30 days of that date, is timely filed pursuant to 28 U.S.C. § 1446(b).

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6.	The Complaint was filed on April 6, 2012, thus one year has not elapsed from the
date the action	in state court commenced

- 7. Venue is proper in the unofficial Southern Division of this district pursuant to 28 U.S.C. § 1441 (a) because this district embraces the place where the state court action is pending.
- 8. Prospect Mortgage will promptly file a copy of this Notice of Removal with the clerk of the state court.
- 9. Pursuant to 28 U.S.C. § 1446 (a), copies of the pleadings filed in the state court action as of this date are attached hereto as follows: Complaint (Exhibit B); Emergency Motion for Temporary Restraining Order on Order Shortening Time ("TRO Motion") (Exhibit C); Plaintiff's Motion to Seal Specified Exhibits to Plaintiff's TRO Motion (Exhibit D); Plaintiff's Motion for Expedited Discovery on Order Shortening Time (Exhibit E).
 - 10. This Notice of Removal is executed and filed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Prospect Mortgage removes the above-entitled action now pending in the Eighth Judicial District Court in and for the County of Clark, Nevada, Case No. A-12-659631-B, to the United States District Court for the District of Nevada.

RESPECTFULLY SUBMITTED this 12th day of April, 2012.

McDONALD CARANO WILSON LLP

By: /s/ Kristen T. Gallagher

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Attorneys for Prospect Mortgage, LLC

	1	<u>CERTIFICATE OF SERVICE</u>
	2	I hereby certify that I am an employee of McDonald Carano Wilson LLP, and that on this
	3	12th day of April, 2012 I caused a true and correct copy of the foregoing NOTICE OF
	4	REMOVAL to be served via ECF upon the following:
	5	Bruce C. Young, Esq.
	6	Montgomery Y. Paek, Esq. LITTLER MENDELSON, P.C. 3060 Howard Hughes Perkusyy, Suita 200
	7	3960 Howard Hughes Parkway, Suite 300 Las Vegas, NV 89169-5937 byoung@littler.com dkeene@littler.com
	8	dkeene@littler.com
	9	Attorneys for Plaintiff
LLP	10	
ON, NEVA	11	/s/ Yalonda Dekle
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